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Attorneys for Defendant

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON  
(HONORABLE LONNY R. SUKO)

UNITED STATES OF AMERICA, )

Plaintiff, )

vs. )

CR-12-072-LRS

MEMORANDUM IN SUPPORT OF  
JOINT MOTION TO CONTINUE  
TRIAL DATE

KEVIN ELLISON, )

Defendant. )

TO: MICHAEL C. ORMSBY, UNITED STATES ATTORNEY  
AINE AHMED, ASSISTANT UNITED STATES ATTORNEY

Counsel for KEVIN ELLISON, Amy H. Rubin for the Federal  
Defenders of Eastern Washington and Idaho and counsel for the United  
States, Aine Ahmed, respectfully file a Joint Motion to Continue. The  
parties respectfully request the Court continue Mr. Ellison's trial  
currently scheduled for January 14, 2013 for a period of three years.

The parties reserve the right to modify the conditions set forth  
below.

MEMORANDUM IN SUPPORT OF  
JOINT MOTION TO CONTINUE

1 **CASE BACKGROUND**

2 On June 14, 2012, Mr. Ellison appeared on a Complaint before  
3 Magistrate Judge Imbrogno. On June 19, 2012, the grand jury returned  
4 a one-count Indictment charging Mr. Ellison with Malicious Use of Fire  
5 to Damage Property Used in Interstate Commerce in violation of 18  
6 U.S.C. § 844(I). The government moved for Mr. Ellison's detention and  
7 the motion was granted.

8 On August 10, 2012, this Court granted Mr. Ellison's uncontested  
9 Motion for Transfer. Mr. Ellison was transported from Spokane County  
10 Jail to Eastern State Hospital as a prison of the United States Marshals  
11 Service. Mr. Ellison was in custody at Eastern State Hospital until  
12 November 9, 2012 when he was transported back to Spokane County Jail  
13 awaiting the hearing scheduled for November 15, 2012.

14 **CONTINUANCE REQUEST**

15 The parties have been working diligently towards a resolution of  
16 this matter. Mr. Ellison was at Eastern State Hospital for  
17 approximately three months. In that time, Mr. Ellison was treated for  
18 mental health issues and has stabilized.<sup>1</sup> While at Eastern State  
19 Hospital, counsel for Mr. Ellison and Mr. Ahmed had an opportunity to  
20 meet with medical staff to discuss Mr. Ellison's circumstances and . It is  
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22 <sup>1</sup> The parties will be providing medical documentation to the  
23 Court. These documents will not be available until early next week.

1 the parties understanding that the medical team at Eastern State  
2 Hospital believe that Mr. Ellison is stabilized and no longer a danger to  
3 himself or the community. Mr. Ahmed also had an opportunity to meet  
4 with Mr. Ellison.

5 In an attempt to resolve this matter, the parties are seeking a  
6 three year continuance. The parties will request that Mr. Ellison be  
7 released on strict conditions of pretrial release. If the Defendant  
8 complies with all the obligations mentioned below, the charges set forth  
9 in the Indictment will be dismissed without prejudice on November 15,  
10 2015.

11 **CONDITIONS OF SUPERVISED PRE-TRIAL RELEASE**

12 While on pretrial release, the parties will request that Mr. Ellison  
13 abide by the following conditions and requirements:

- 14 1. Defendant shall reside with his parents during the first year of  
15 diversion. Upon completion of the first year of pretrial release, Mr.  
16 Ellison would have the opportunity to revisit the issue upon motion  
17 to this Court.
- 18 2. Defendant shall pay restitution in the amount of \$101,047.85  
19 (\$100,027,85 owed to Fireman's Fund and \$1020.00 owed to Chris  
20 Tucker). The restitution shall be paid on the 15<sup>th</sup> of each month.  
21 Payments towards restitution shall begin on March 15, 2013. The  
22 payments made by Mr. Ellison will be determined by his  
23 supervising probation officer depending on his ability to pay. The  
24 amount paid each month shall not be less than \$400.00 unless

1 modified by this Court. Any and all interest on the restitution  
2 shall be waived.

- 3 3. Defendant shall participate in mental health counseling. He shall  
4 comply with the directives of his discharge summary from Eastern  
5 Hospital and comply with the recommendations of mental health  
6 providers in California. Defendant shall allow full reciprocal  
7 disclosure between the supervised officer and treatment provider.
- 8 4. Defendant shall take medication as prescribed by his mental health  
9 doctors.
- 10 5. Defendant shall undergo a substance abuse evaluation and, if  
11 indicated by a licenced/certified treatment provider, enter into and  
12 successfully complete an approved substance abuse treatment  
13 program. Defendant shall allow full reciprocal disclosure between  
14 the supervised officer and treatment provider.
- 15 6. Defendant shall not purchase, possess, use, distribute or  
16 administer any controlled substance or any paraphernalia related  
17 to any controlled substance, except as provided by a physician
- 18 7. Defendant shall not frequent places where controlled substances  
19 are illegally sold, used, distributed or administered.
- 20 8. Defendant shall submit to urinalysis testing, as directed by the  
21 supervising officer, but no more than six tests per month, in order  
22 to confirm abstinence from these substances.

- 1 9. Defendant shall report to his probation officer in a manner and  
2 frequency directed by the Court of probation officer.
- 3 10. Defendant shall notify the probation officer within seventy-two  
4 hours of being arrested or questioned by a law enforcement officer.
- 5 11. Defendant shall maintain contact with his attorney at least once a  
6 month.
- 7 12. Defendant shall not possess any firearms or ammunition.
- 8 13. Defendant shall not violate, be charged with, or be convicted of any  
9 criminal violations under federal, state, or local law on or before  
10 November 15, 2015.  
11

12 **CONCLUSION**

13 Based on the foregoing, the parties jointly request the Court  
14 continue this matter for a period of three years.  
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1 Dated: November 9, 2012

2 Respectfully Submitted,

3 s/ Amy H. Rubin  
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6 Federal Defenders of  
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